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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/382,372	08/24/1999	JEFFRY JOVAN PHILYAW	PHLY-24738	5133

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EXAMINER
KANG, PAUL H

ART UNIT	PAPER NUMBER
2141	16

DATE MAILED: 07/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/382,372	PHILYAW ET AL.	
	Examiner	Art Unit	
	Paul H Kang	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 May 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 2* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 2* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolzien, US Pat. No. 5,761,606 in view of Hudetz et al., US Pat. No. 5,978,773 and further in view of Reese, US Pat. No. 6,374,237 B1.

2. As to claim 1, Wolzien teaches the invention substantially as claimed. Wolzien teaches receiving at a user's computer at a location on the network an audio signal from a broadcast generated by an advertiser, which audio signal has embedded therein unique coded information (Wolzien, col. 3, lines 25-49);

connecting the user's computer to an advertiser's location in response to extracting the unique coded information from the audio signal, and the advertiser's location being correlated to the unique coded information; extracting the unique coded information from the audio signal in response to the step of receiving (In response to the receipt of the audio/video signal, the system extracts the embedded electronic address for use. Wolzien, col. 3, line 25 – col. 4, line 29 and col. 6, lines 1-58).

However, Wolzien does not specifically teach connecting the user's computer to an advertiser's location without user intervention in response to the step of extracting. In the same field of endeavor, Hudetz teaches a system for automatically connecting a user to an advertiser's

location based on unique coded information retrieved from an input device (Hudetz, abstract and col. 3, line 17 – col. 4, line 30 and col. 9, lines 54-64).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have incorporated the method of automatically connecting the user to an advertiser's location, as taught by Hudetz, into the system of Wolzien for the purpose of increasing efficiency and user friendliness.

Wolzien-Hudetz teach the invention substantially as claimed. However, Wolzien-Hudetz do not specifically teach the step of connecting causing profile information of the user to be sent to the advertiser's location over the network, receiving the profile at the advertiser's location, and generating information to forward to the user based upon the user's profile forwarded to the advertiser's location and forwarding this information to the connected user, wherein broadcast of the audio signal causes both a connection to the advertiser's location on the network and a push of profile information thereto.

In the same field of endeavor, Reese teaches a system for data set selection based upon user profile. Reese teaches transmitting a request that contains a user profile to a server, receiving the profile at the server, and generating the requested information based upon the user's profile (Reese, col. 1, lines 55-63 and col. 4, lines 6-21).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have incorporated the use of content customization based on user profiles, as taught by Reese, into the automatic data retrieval system of Wolzien-Hudetz for the purpose of increasing the quality and relevance of the retrieved data.

3. As to claim 2, Wolzien-Hudetz-Reese teaches extracting the information from the unique coded information as a unique code (Wolzien, col. 3, line 25 – col. 4, line 29 and col. 6, lines 1-58);

transmitting the extracted unique code to an intermediate location on the network (Hudetz, col. 8, line 11 – col. 9, line 21);

transmitting to the intermediate location from the user's computer a unique user ID associated with the user and which was stored at the user's computer (Hudetz, col. 7, line 1 – col. 8, line 10; col. 8, lines 11-63 and col. 9, lines 43-53; a unique user ID, a password or digital signature, is transmitted to the intermediate location along with the unique coded information);

providing a database at the intermediate location having stored therein an associative database associating a plurality of unique codes with routing information on the network, and also for storing user profile information associated with user IDs received thereby (Hudetz, col. 7, line 1 – col. 8, line 10 and col. 8, lines 11-63 and Reese, col. 1, lines 55-63 and col. 4, lines 6-21);

comparing the received unique code with the information stored in the database and, if a corresponding unique code is stored therein, forwarding both the user profile information and the associated routing information back to the user's computer (Hudetz, abstract and col. 3, line 17 – col. 4, line 30 and col. 8, line 11 – col. 9, line 21); and

at the user's computer, utilizing the routing information to interconnect with the advertiser's location on the network and forwarding to the advertiser's location the user profile information (Hudetz, col. 8, line 11 – col. 9, line 21 and col. 9, lines 54-64; Reese, col. 1, lines

55-63 and col. 4, lines 6-21).

4. Applicant's arguments with respect to claims 1 and 2 have been considered but are not deemed to be persuasive. The Applicant argued in substance that the prior art of record fails to teach the newly added limitations wherein broadcast of the audio signal causes both a connection to the advertiser's location on the network and a push of profile information thereto. The Applicant argued that Reese does not disclose a causal relationship between the step of connecting and the sending of profile information of the user to the advertiser's location over the network. Applicant cites Reese, col. 3, line 33.

The examiner respectfully disagrees with the applicants' reading of the prior art of record. Firstly, it must be noted that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Here, Wolzien teaches receipt of an audio signal having embedded thereon address information, Hudetz teaches automatic control of browser functions in response to receipt of external, non-user inputted, signals, and Reese teaches automatic "push" of user profile information from the user computer to the server.

The prior art, taken in combination, teaches the invention as claimed. The disclosure of Reese in column 2, line 65 – 58, regarding steps performed prior to the actual sending of the user profile to the server, does not necessarily show that the sending is not performed in response to the step of connecting, as suggested by the applicant. The mere existence of intervening steps do not render an automatic function separate and distinct. The user profile request 100 is initiated by

the client 110 in a series of steps stemming from the initial step of establishing a connection. Further, this process must be viewed in light of the teaches of Wolzien and Hudetz.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul H Kang whose telephone number is (703) 308-6123. The examiner can normally be reached on 9 hour flex. First Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (703) 305-4003. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Paul H Kang
Examiner
Art Unit 2141

July 14, 2003

DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100